

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

UNITED STATES OF AMERICA)	CR No.: 3:09-500-JFA
)	
v.)	ORDER
)	
BILLIE JOE RISINGER)	
)	

This matter is before the court upon motion of the defendant for a reduction of her term of imprisonment under 18 U.S.C. § 3582(c)(2), pursuant to the Fair Sentencing Act (FSA), Amendment 750 to the U.S. Sentencing Guidelines, and the recent Supreme Court decision in *Dorsey v. United States*, ___ U.S. ___, 132 S.Ct. 2321 (June 21, 2012). The government has responded in opposition to the motion and for the reasons which follow, the motion is denied.

On June 25, 2010, the defendant was sentenced to 95 months imprisonment after the court held her accountable for 2.8 kilograms of cocaine. Because of the lesser-included conspiracy count that the government allowed the defendant to plead guilty to, the defendant faced no statutory mandatory minimum sentence.

Part A of Amendment 750 altered the offense levels in USSG Section 2D1.1 applicable to crack cocaine offenses. The Fair Sentencing Act of 2010 (which statutorily changed the threshold quantities of crack cocaine that trigger mandatory minimum sentences under 21 USC Section 841(b)), directed the Sentencing Commission to lower these offense levels, thus Amendment 750 became effective on November 1, 2011 and was made retroactive. It provides a two-level reduction in the offense level and applies to eligible

defendants who were sentenced for crack offenses under the Guidelines and who are not subject to mandatory minimum sentences.

Here, the defendant's sentence was based upon drug weight calculations involving 2.8 kilograms of cocaine powder, and not upon crack cocaine. Thus, Amendment 750 is not applicable to her sentence. Moreover, the defendant was sentenced prior to the enactment of the Fair Sentencing Act for pre-Act conduct, thus she is not entitled to a sentence reduction.

Accordingly, the defendant's motion is denied (ECF No. 876).

IT IS SO ORDERED.

January 29, 2013
Columbia, South Carolina


Joseph F. Anderson, Jr.
United States District Judge